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If We Say “I Do” in Bangkok, Would We Be Considered Married in Manila? Exploring the Validity of Same-Sex Marriage in the Philippines

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Abstract

The Philippines adheres to the *lex loci celebrationis* principle in contract law. This means that a contract that is valid where executed will be recognized as valid in the Philippines. However, the Philippines also follows the nationality principle when it comes to personal laws governing its citizens, including those on family rights and duties, civil status, and legal capacity. Thus, laws on marriage and divorce are binding on Filipinos regardless of their location. For example, a married Filipino couple cannot obtain a divorce even if they live in a jurisdiction where divorces are valid. But a divorce decree obtained by a Filipino citizen and his or her foreign spouse is recognized in the Philippines under the *lex loci celebrationis* principle, provided that it capacitates the foreign spouse to remarry and it was such foreign spouse who procured the divorce. The strict rules on the recognition of foreign divorces appear to be loosening. Today, even divorce decrees obtained at the instance of the Filipino spouse are now recognized in the Philippines. The rationale for the relaxation of the rules when it comes to foreign divorces is that the Filipino spouse should not be discriminated against in his or her own country, as enunciated in the 1985 case of *Van Dorn v. Romillo*. My paper uses the rationale behind the recognition of foreign divorce decrees to argue, by analogy, for the recognition in the Philippines of same-sex marriage between a Filipino citizen and a foreign national under the *lex loci celebrationis* principle.

Keywords: *lex loci celebrationis*; same-sex marriage; divorce; philippines